



**Key Environmental Issues in U.S. EPA
Region 2
May 23, 2012**

**Panel 3: Contaminated Site Cleanup and Redevelopment
Site Remediation Reform in New Jersey**

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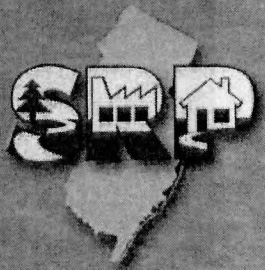
New Jersey's Site Remediation Program – The Need for Reform

Before Reform

1. Managing process case-by-case
2. Regulations that account for every imaginable remediation scenario
3. DEP serving as the consultant's consultant
4. Both SRP staff and stakeholders) frustrated with slow pace of remediations.

What was needed

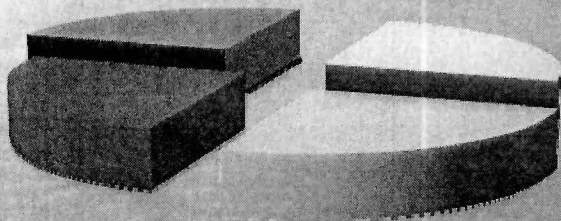
1. Managing outcomes, not process
2. Uncluttered, goal based regulations
3. Holding consultants accountable for quality of their work – Free up DEP resources to focus on sites that have the greatest impact on the environment.
4. Timely return of contaminated sites to productive use





Achieving Reform – Topics of Today's Discussion

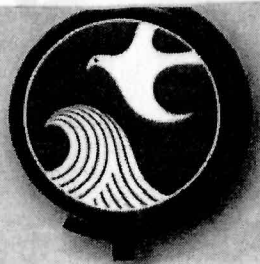
Four key components



- STATUTES-New/additional authority from Legislature
- RULES-provides implementation framework
- STAFF - Refocus through Reorganization
- C&E - Compliance Assistance and Enforcement

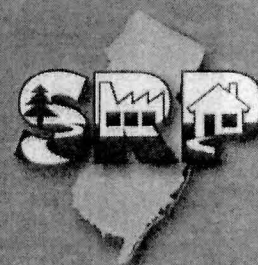
Progress and ongoing initiatives





Statutory Authority:
Site Remediation Reform Act (SRRA), N.J.S.A.
58:10C-1 et seq., effective May 7, 2009

- **FLEXIBILITY** in remediation of sites
 - License Site Remediation Professional (LSRP) – professional judgment
- **ACCOUNTABILITY**
 - Site Remediation Professional Licensing Board
 - LSRP Code of Conduct
 - DEP Permits for engineering and institutional controls
 - Strict criteria for when DEP may/shall:
 - Review submissions
 - Place site under direct Department oversight
 - Invalidate an LSRP's response action outcome (equivalent to DEP no further action letter)



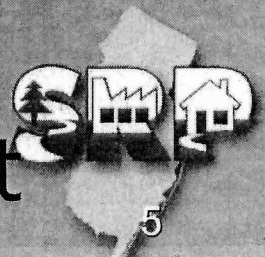


Statutory Authority (cont.): Mandatory Timeframes in SRRA

- Mandatory Timeframes-help drive pace of remediation

Receptor evaluation	Performance of PA, SI, RI and RA
Control of ongoing sources	Completion of remediation
Establishment of interim remedial measures	Any other activities deemed necessary by the Department
Addressing immediate environmental concern conditions	

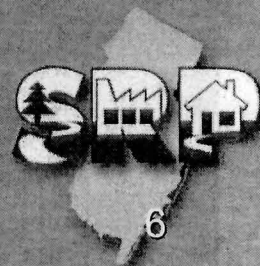
- Consequences of missing a mandatory timeframe = Direct Department Oversight





Statutory Authority (cont.): Brownfield and Contam. Site Remed. Act, N.J.S.A. 58:10B-1 et seq. Key Amendments

- **FLEXIBILITY**
 - RP to conduct remediation under supervision of LSRP unless otherwise directed by DEP
- **ACCOUNTABILITY**
 - RP has affirmative obligation to remediate
 - Meet mandatory timeframes or any extension thereof
 - Expansion of remediation funding source (RFS) requirements
 - New financial assurance requirements for permits for engineering controls (limits on self guarantees)
- **Presumptive/Enhanced Remedies**
- **Remediation Guarantee Fund – technical assistance grants**





**Statutory Authority (cont.):
Spill Compensation and Control Act,
N.J.S.A. 58:10-23.11 et seq.
Key Amendments**

- **ACCOUNTABILITY**
 - DEP to maintain list of known hazardous discharge sites
 - DEP to rank sites on list based on:
 - Level of risk to public health, safety or the environment
 - Length of time site has been undergoing remediation
 - Economic impact of the site on the municipality and on surrounding property





DEP Rulemaking – **Implementation Framework**

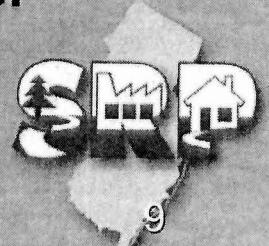
- SRRA allowed for a three year phase-in period – final rules must be in place by May 7, 2012
- DEP engaged in unprecedented stakeholder outreach – the success of the program rests with all of us
- Third and final phase of rulemaking
 - Proposal of final rules – see 43 N.J.R. 1935(a) (August 15, 2011)
 - Adoption of final rules – see ___ N.J.R. ____ (May 7, 2012)





DEP Rulemaking **(cont.)**

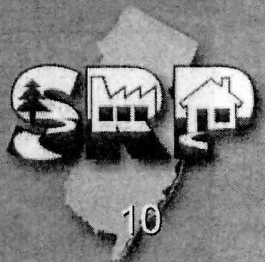
- Rulemaking includes:
 - Brand New Technical Requirements for Site Remediation (Tech Regs), N.J.A.C. 7:26E
 - Amendments to other key chapters:
 - Administrative Requirements for the Remediation of Contaminated Sites (ARRCS), N.J.A.C. 7:26C
 - Underground Storage Tanks (UST) rules, N.J.A.C. 7:14B
 - Industrial Site Recovery Rules (ISRA), N.J.A.C. 7:26B





DEP Rulemaking (cont.)- Brand New Tech Regs

- **FLEXIBILITY:** Focus on use of LSRP's professional judgment:
 - Goal – oriented regulations (the “what”)
 - The “how to” is in a series of technical guidance documents
 - May vary from a technical requirement as long as DEP informed and variance is documented
- **ACCOUNTABILITY:**
 - Regulatory timeframes - help RPs meet mandatory timeframes





DEP Rulemaking (cont.) – **Key amendments to ARRCs**

- **FLEXIBILITY:**
 - Continuously remediate without DEP oversight unless DEP directs otherwise
 - May deviate from hierarchy of regulations and technical guidance if deviations are documented and submitted with key submissions made to DEP
 - May extend some mandatory timeframes under specific circumstances





DEP Rulemaking (cont.) – Key amendments to ARRCS

- ACCOUNTABILITY
 - Mandatory timeframes
 - New penalty table – broadly worded violations and higher penalty amounts
 - Direct Department Oversight
 - List of circumstances/conditions under which RAO no longer protective
 - Requires LSRP to invalidate RAO if no longer protective
 - Remedial action permits





DEP Rulemaking (cont.) – **ISRA and UST rules**

- Amendments to ISRA and UST
 - Incorporate concept of LSRP
 - Require remediation without DEP oversight unless otherwise directed

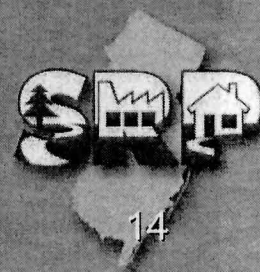




Staff – SRP Reorganization

Re-establishing priorities

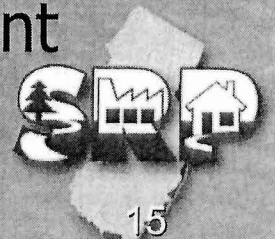
- Closing down UST and ISRA as “stand alone” programs
- Moving and training staff
- Improving communication and outreach, including training
- Developing strategies for compliance assistance and enforcement
- Developing Direct Department Oversight





Staff – SRP Reorganization (cont.)

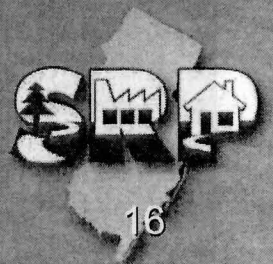
- Division of Remediation Management
 - To promote internal communication to foster consistency in remediation
 - Cases no longer differentiated by program (ISRA, UST)
 - All remediation cases (including publicly funded)
- Division of Remediation Support
 - All SRP financial functions
 - Emphasize compliance assistance and enforcement
 - Science/Technical support and communications





Staff (cont.) – Using Remedial Priority Scoring (RPS) to Focus Staff Resources

- RPS mandated by SRRA
 - 1 of many tools to help DEP allocate its resources
- Key question: “Is the site being remediated?”
- Scored sites are put into 5 categories
 - Scores will be sent to RPs for opportunity to provide info/data that could be used to revise score
 - Categories will be published on the KCSNJ
 - Electronic model includes GIS layers
- For more info contact George Klein
 - george.klein@dep.state.nj.us or 609-984-2908





C&E - Compliance Assistance

- Inspectors and reviewers – will continue to work with RPs and LSRPs
- Technical consultation will continue
- Outreach prior to enforcement is part of gearing up - will not continue indefinitely
 - Developing means of sending notifications prior to key due dates (i.e. reg./mandatory timeframe)
 - No compliance assistance for failure to pay fees and oversight costs





C&E (cont.)-

Compliance Assistance

(Non-Compliance Aspects)

- Over 5,800 cases still needed to hire LSRPs
(as of March 7, 2012)
- 4403* "Compliance Assistance Alert" letters
sent January 27, 2012
- ✓*Universe to 3461 as of 3/1/12
- ✓*Universe to 3066 as of 3/6/12





C&E (cont.) - Compliance Assistance Commitment & Results

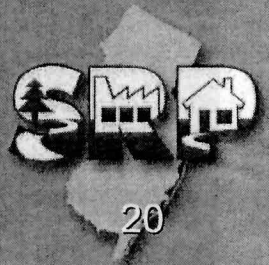
- ✓ Over 14,000 letters sent in 3 mailings
- ✓ Over 750 "not cont. remediating" letters issued
- ✓ 100s of "unassigned case" letters issued
- ✓ 12 major outreach events in 2011 alone
- ✓ 2 publications
- ✓ Regular listservs/extensive web page resource
- ✓ Web article/Blast Email on "Compliance Alert"
- ✓ Countless Case Manager outreach efforts
- ✓ Compliance Assistance on 1274 cases (as of 2/3/12)
(68% success rate on approx. 900 completed actions)
- ✓ New Dataminer Reports Coming Shortly





C&E (Cont.) – Enforcement is under development

- Many more resources for enforcement
- New processes will be in recognition of:
 - The volume of cases in the program
 - The need for the Department's timeliness
- Compliance issues are black and white
- Data cleanup and developing new tracking systems
- We are closely tracking **each case**





C&E (Cont.) –

“Strength of Enforcement Actions will be based in Simplicity”

Violations Comparison

Pre – SRRA

- Based in Tech. details
- Findings more easily challenged
- Extensive Findings to support action
- Case Manager Support

Post – SRRA

- Based on due dates
- Clear/Well defined authority
- Focused Fact Patterns-
**winnable on summary
decision**
- NJEMs Data

Supported





C&E (cont.) – Priority Factors

- ALL Cases on the Department's Radar Screen
 - Rebuffed compliance assistance efforts;
 - LSRP not hired/dismissed;
 - Missed Mandatory Timeframes with Risk/No Source Control Initiated;
 - Remedial Priority Score considered when finalized;
 - Nature of Contaminants - Discretionary D.O.
(above items evaluated either singularly or in combination)

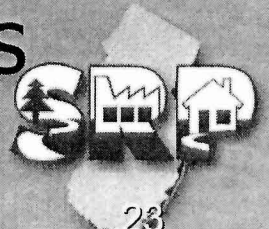




Progress of Program to Date

(As of March 2012)

- 14,905 Total number of cases (1028 UHOT)
- 4,771 Total number of LSRP cases
- 1,272 RAOs issued
 - 24 RAOs Withdrawn by LSRP
 - 0 RAOs invalidated by DEP
- 42 Avg. days to process LSRP submittals
(Admin, Inspection and review)
- 549 Number of Temp Licensed LSRPs

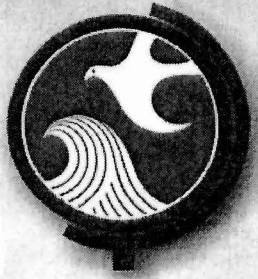




Ongoing Initiatives

- Publically Funded Program Plan – ID and resolve issues ASAP with stakeholder input
- Electronic Data/Portal Plan – Continue efforts to automate all aspects of business processes
- Training and Outreach – Continue to train DEP staff, LSRPs and other members of the community
- Continue to identify opportunities using staff and stakeholder input





Key Websites

- NJDEP -
- NJDEP – Site Remediation Program -
<http://www.state.nj.us/dep/srp/>
- Site Remediation Professional Licensing Board -
<http://www.nj.gov/l srpboard/>
- Known Contaminated Sites List -
<http://www.state.nj.us/dep/srp/kcsnj/>
- Remedial Priority Scoring -
<http://www.state.nj.us/dep/srp/srra/rps/index.html>
- Rules, Proposals and Adoptions –
<http://www.nj.gov/dep/rules/>
- SRP Guidance -
<http://www.state.nj.us/dep/srp/guidance/index.html>

